

REMARKS

Applicants acknowledge that the present Office Action presents a new ground of rejection, and applicants appreciate the implied indication by the Office that the rejections that employ Babayan et al. U.S. Patent No. 3,006,771 of the previous Office Action now have been withdrawn. Claims 1-5, 8, 9, 11-13, 15-17, 20-25, 27, 29, 37, 40, 41, 43, 44 and 46-48 now are rejected under 35 U.S.C. §103 from Aoyama U.S. Patent No. 6,827,963 in view of Wester U.S. Patent No. 6,589,588 and C.F.R. §101.83 and St.-Onge *et al.* "Consumption of a Functional Oil Rich in Phytosterols and Medium-Chain Triglyceride Oil Improves Plasma Profiles in Men," taken together, as further evidenced by Bailey pages 192-196 and 210-212.

The present Amendment revises the single independent composition claim, single method-for-making independent claim 37, and single independent method-for-using claim 40. Each such claim continues to specify that the oil compositions are liquid vegetable oil compositions in which the interesterified liquid structured lipid component is a reaction product of between about 30 and 60 weight percent medium chain vegetable triglyceride and between about 40 and 70 weight percent long chain domestic vegetable oil triglyceride; that said medium chain triglyceride is selected from the group consisting of caprylic triglyceride, capric triglyceride, and combinations thereof; and that the domestic oil is selected from the group consisting of soybean oil, corn oil, cottonseed oil, canola oil, olive oil, peanut oil, safflower oil, sunflower oil, oil from grain plants, and combinations thereof. In addition, each independent claim more specifically defines the structured lipid component and interesterification in terms a **randomization** by which fatty acid moieties are

interchanged such that the fatty acid moieties vary randomly from glycerol structure to glycerol structure. Support is found in paragraphs [0009] and [0029] and elsewhere in the originally filed application.

Applicants have studied newly cited Aoyama and have added the "randomization" feature noted above. Aoyama teaches the opposite of randomization interesterification, thus teaching away from the structured lipid component of each of independent claims 1, 37 and 40.

More specifically, Aoyama teaches triglycerides in which specified fatty acids are artificially combined at the first portion, the second portion and third portion of the triglyceride molecule. See first sentence of the Abstract of Aoyama. This artificial combination of fatty acids is specifically taught as having specific triglyceride structures, disclosed by Aoyama as Formula I, Formula II, Formula II', Formula III, Formula III', Formula IV, Formula V or Formula VI. Whether or not additional formulas might have been contemplated by Aoyama, Aoyama clearly does not disclose, teach or contemplate randomization interesterification or a triglyceride that is a randomization reaction product having interchanged fatty acid moieties that vary randomly from glycerol structure to glycerol structure. Aoyama teaches placing fatty acids on a specific position on the glycerol backbone, which would not have obviously led one of ordinary skill in the art to the randomized approach for the liquid structured lipid component of applicants' claimed compositions and methods. Aoyama specifically teaches away from randomization; instead, Aoyama teaches the "designing" of triglycerides according to the designated Formulas mentioned above.

With this basic contrary teaching of Aoyama, applicants cannot see how it would have been obvious to change this “teaching away” by combining Aoyama with any of the secondary references relied upon by the Office. The Office Action states that Wester is relied upon to show that incorporation of phytosterol esters in foods acts to lower cholesterol of the body, which has nothing to do with random interesterification or the structured lipid components that are claimed by applicants and that are not taught or contemplated by Aoyama. A similar observation is made with respect to the CFR reference that the Office relies upon for showing levels of phytosterol ester fortification required to make labeling claims with regard to lowering cholesterol and reducing coronary heart disease risk. This reference has nothing to do with randomization interesterification or with applicants’ claimed liquid structured lipid component. The St.-Onge reference is cited for its teaching of oils rich in phytosterols and medium chain triglyceride oil are known to improve plasma lipid profiles, which once again has nothing to do with randomization interesterification that applicant claims and from which Aoyama teaches away. Similarly, Bailey is relied upon by the Office with respect to properties of viscosity and smoke point and melting points of certain vegetable oils, not randomization interesterification products or methods.


For these reasons, the combination of five references posited by the Office in this latest Office Action could not have been obviously combined to arrive at applicants’ claimed invention. Reconsideration and withdrawal of the §103 rejection are respectfully requested.

To the extent the Office nevertheless continues to insist that it has made out a *prima facie* case of obviousness and in the event the Office still is not convinced that the

claims as presently drafted are unobvious over this newly presented combination of five references, applicants respectfully remind the Office of the data already of record in this application, which data overcome any such *prima facie* showing. As related in greater detail from pages 15-17 in applicants' Amendment After Final of March 2, 2009, test data already of record in this application show that applicants' invention provided a baseline LDL reduction of 21%, whereas data in the cited prior art, St.-Onge, reported a baseline LDL reduction of 14%, which represents an enhancement by a factor of one-third. As previously noted, an important difference between the St.-Onge compositions and those of applicants' claims is that St.-Onge teaches a vegetable oil composition of a medium chain triglyceride with a long chain fatty acid, but these components are not interesterified in any manner before being blended with a phytosterol component. Accordingly, these data provide further strong support for the unobviousness of the presently claimed invention. Reconsideration and withdrawal of the §103 rejection are further believed to be in order for this additional reason.

Applicants have made an earnest endeavor to place this application into condition for allowance, and favorable consideration is respectfully requested.

Respectfully submitted,



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